

REMARKS/ARGUMENTS

This is a full and timely response to the Official Action of March 28, 2007. A Petition to Extend the Time for this Response to Within the First Extended Month accompanies this submission. Reexamination and reconsideration are respectfully requested.

Procedural Dilemma

The Official Action of March 28, 2007 purports to be a response to the Appellant's Brief on Appeal filed contemporaneously with an Amendment After Final correcting minor errors in the claims on appeal and as presented at Final Action in the parent. It is not clear from the record that the Amendment After Final was officially entered by the examiner, so out of an excess of caution absent a positive statement to that effect, the same amendments are here presented in response to the non-final Action of March 28, 2007.

By the foregoing amendment, claims 2 and 5 have been amended. Claims 1, 2, 5, 6, 9 and 10 remain pending in this application, with claims 3, 4, 7 and 8 having been cancelled by the Applicants' earlier amendment.

The amendment to claim 2 has been made to delete language that was inadvertently included in the claim listing submitted with the Applicants' previous amendment filed on February 3, 2006. The deleted material is already included in the Applicants' independent claim 1 (it was originally presented in claim 3), and its inclusion in claim 2 was unintentional.

The amendment to claim 5 has been made to change the phrase "tape formed on said recording medium" into --tape form recording medium--. This revised claim language

corresponds with the language of original claim 5 and other language within the claim, and is necessary to correct an obvious mistake in the previous amendment.

These amendments to the pending claims should be entered because: (1) the amendments correct obvious mistakes that are clearly supported by the record; (2) the amendments will place the claims in better form for consideration on appeal; and (3) the amendments do not change the scope of any of the claims or issues on appeal.

If, on the other hand, the proposed changes in the Amendment After Final were in fact entered, the current modifiers are incorrect and all pending claims should be identified as "Previously Presented". The forbearance of the examiner in not holding this amendment non-responsive is solicited in this effort to clarify the language of the claims presently pending.

Pending Rejection

Claims 2, 6 and 10 were merely objected to, while claims 1, 5 and 9 were rejected as anticipated by the U.S. Publication No. 2003/0234998 published on December 15, 2003. The subject matter of that publication has matured into U.S. Patent No. 7,106,535 (copy provided) having an effective filing date of May 20, 2003 under 35 U.S.C. §102(e). However, with the submission of a certified copy of the Applicant's priority document, this subject application is entitled to an effective date of January 24, 2003 based on the JP priority application No. P2003-015778.

Thus, the Magnusson publication as cited is not available as a publication against this application because its publication date is antedated. Moreover, the updated citation of the

corresponding U.S. Patent No. 7,106,535 is also not available as a reference in that its actual filing date of May 20, 2003 is antedated by the Applicant's priority submission as well.

However, in compliance with the Applicant's Duty of Disclosure, it was noted on or about May 22, 2007 when beginning to prepare a response to this Action that the face of the '535 patent mentions that is a Continuation-in-Part of Application No. 10/131,499 filed on April 25, 2002. That application was published as U.S. Publication No. US 2003/005563 on March 23, 2003 (copy provided). Thus the publication of the parent application is also antedated.

Further, in compliance with the Duty of Disclosure, that '499 application was filed on April 25, 2002 and became U.S. Patent No. US 6,985,323 on January 10, 2006. That filing date is not antedated by the priority submission so that the '323 patent should be considered with respect to the pending claims. Because its text is in the neighborhood of six columns as opposed to the 14 or so columns in the '535 patent, it would appear that is limited disclosure does not anticipate the pending claims that were rejected.

This will certify that the '535 patent, the '563 publication and the '323 patent came to the attention of the undersigned on or about May 22, 2007 when studying the rejection of the examiner for purposes of preparing a response and, to my knowledge after making reasonable inquiry, were not known to the undersigned more than three months prior to this submission. While it is not believed that any fee for this IDS submission is needed in view of the circumstances surrounding the discovery by the undersigned of the newly-submitted information, if a fee is needed for submission after a first action but before a Final Action, a charge is authorized for the Applicant's Deposit Account No. 18-0013 mentioning SON-2897.

Docket No. SON-3188
Serial No. 11/044,277

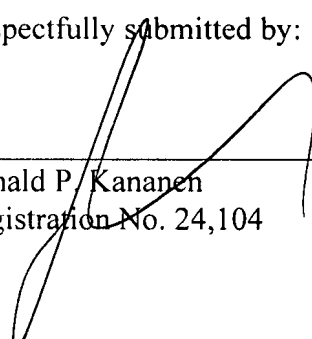
PATENT APPLICATION

If a new action is contemplated, it should be a non-final Action and specifically point out by mapping where each of the limitations of any rejected claim is found in the '323 patent.

The submissions mentioned above, to the extent not previously cited by the examiner, are noted in an accompanying Form PTO/SB/08 and consideration of all of the newly-cited documents in view of the prior argument is respectfully solicited.

Respectfully submitted by:

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